

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1672 – SB 2178

February 21, 2022

SUMMARY OF BILL: Expands the definition of “hazardous waste” to include coal ash, fly ash, bottom ash, boiler sag, and other by-products from burning coal, thereby making it a violation of the Tennessee Hazardous Waste Management Act of 1977 to do the following with the aforementioned, newly-defined types of hazardous waste :

- Place or deposit any hazardous waste into the waters of the state except in a manner approved by the Department of Environment and Conservation (TDEC) or the Tennessee Board of Water Quality, Oil and Gas;
- Burn hazardous waste except in a manner and under the conditions prescribed by the TDEC or the Air Pollution Control Board;
- Construct, alter, operate, own, close, or maintain after closure a hazardous waste treatment, storage, or disposal facility in violation of the rules and regulations established under this part or in violation of orders of the Commissioner of the TDOT or board, or in such a manner as to create a public nuisance or a hazard to public health;
- Store, containerize, label, transport, treat or dispose of hazardous waste or fail to provide information in violation of the rules, regulations, or orders of the commissioner or board, or in such a manner as to create a public nuisance or a hazard to the public health;
- Refuse or fail to pay to the Department fees assessed and in violation of the rules, regulations, or orders of the Commissioner or Board; or
- Site a new commercial hazardous waste facility less than 1,500 feet from residential, child care, church, park or school property.

FISCAL IMPACT:

**Increase State Expenditures - \$287,000/FY22-23
\$280,400/FY23-24 and Subsequent Years**

Other Fiscal Impact – This legislation could result in a decrease in federal funding from TVA for positions in TDEC’s Coal Combustion Residual Program. Such program currently funds three TDEC positions, and incurs approximately \$500,000 in annual expenditures. If such program were no longer federally-funded, the positions would need to be state-funded, resulting in a recurring increase in state expenditures of \$500,000. Additionally, if the TVA were no longer able to dump certain coal burning byproducts at landfills in this state, the TVA would dump such waste out-of-state, resulting in a decrease in recurring state revenue of \$40,000 to the Solid Waste Program.

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Assumptions:

- Currently, coal ash, fly ash, bottom ash, boiler sag, and other by-products from burning coal are treated as nonhazardous waste.
- This legislation will label such waste as hazardous waste.
- TDEC currently has two programs under the Department's Division of Solid Waste Management (DSWM): the Solid Waste Program (SWP) and the Hazardous Waste Program (HWP).
- The Solid Waste Program handles nonhazardous waste and the Hazardous Waste Program handles hazardous waste.
- According to information provided by the TDEC, this legislation will require additional rules and regulations to be developed to meet these new requirements, which are all outside the current purview of the HWP.
- Additional duties required of the HWP include reviews of additional permit applications, conducting inspections, investigation of complaints, overseeing groundwater monitoring, and managing permit related files associated with facilities.
- The existing staff of the HWP program are non-dedicated and would be unable to meet the requirements of this legislation.
- This legislation will require six additional positions (4 Environmental Consultant - 3 positions, 2 Environmental Consultant - 1 positions) beginning in FY22-23.
- There will be a recurring increase in state expenditures of \$560,840 $\{[(\$77,568 \text{ salary} + \$19,810 \text{ benefits} + \$200 \text{ supplies}) \times 4 \text{ Environmental Consultant} - 3 \text{ positions}] + [(\$67,008 \text{ salary} + \$18,056 \text{ benefits} + \$200 \text{ supplies}) \times 2 \text{ Environmental Consultant} - 1 \text{ positions}]\}$ in FY22-23 subsequent years.
- There will be one-time expenditures associated with these positions of \$13,100 (\$5,000 computers + \$8,100 network).
- A total increase in state expenditures in FY22-23 of \$573,940 (\$560,840 + \$13,100).
- A recurring increase in state expenditures in FY23-24 and subsequent years of \$560,840.
- The extent to which decreased workload for the SWP will result in a reduction in state expenditures cannot be quantified with reasonable certainty. However, accounting for the difference in expertise required by the two programs, it is assumed that the recurring reduction in expenditures for the SWP will offset at least 50 percent of the estimated increase in state expenditures for the HWP.
- Therefore, the net increase in state expenditures is estimated to be \$286,970 in FY22-23 $(\$573,940 \times 50\%)$ and \$280,420 in FY23-24 and subsequent years $(\$560,840 \times 50\%)$.
- Based on information provided by TDEC, this legislation will result in regulations with regards to coal ash that are more stringent than federal standards.
- Currently, the Tennessee Valley Authority (TVA) indirectly funds the Coal Combustion Residuals (CCR) program, as related to TDEC's regulation of eight TVA coal ash sites.
- The TDEC states that the impact of this legislation would require review of current minimum orders regarding the CCR program and could possibly result in the TVA no longer funding TDEC positions related to such program, including 3 full-time positions incurring approximately \$500,000 in annual expenditures.

- Based on information from the TDEC, if the TVA no longer funded these positions, the state will need to fund such positions, resulting in an increase in state expenditures of \$500,000.
- Additionally, the TDEC states that if the TVA were to ship CCR out of Tennessee, instead of to the four existing landfills within this state, the Department would lose approximately \$40,000 annually in fees to the Solid Waste Program.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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